

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform and |) | WC Docket No. 11-42 |
| Modernization |) | |
| |) | |
| Federal-State Joint Board on Universal Service |) | CC Docket No. 96-45 |
| |) | |
| Lifeline and Link Up |) | WC Docket No. 03-109 |

REPLY COMMENTS OF EMERIOS

May 10, 2011

Thomas W. Cohen
Joan M. Griffin
KELLEY DRYE & WARREN LLP
3050 K Street N.W., Suite 400
Washington, D.C. 20007
(202) 342-8400
tcohen@kelleydrye.com
jgriffin@kelleydrye.com

Table of Contents

| | |
|---|----|
| SUMMARY | I |
| I. INTRODUCTION | 1 |
| II. THE COMMENTS REFLECT A CONSENSUS THAT A NATIONAL DATABASE THAT IS ADMINISTERED BY A NEUTRAL THIRD PARTY AND MEETS CERTAIN MINIMUM REQUIREMENTS IS THE BEST SOLUTION TO THE PROBLEM OF WASTE, FRAUD AND ABUSE IN THE LIFELINE/LINK UP PROGRAM. | 2 |
| A. Commentors Agree That a Database is the Best Way to Eliminate Duplicate Claims and Exclude Ineligible Participants From the Lifeline/Link Up Program..... | 2 |
| B. Commentors Concur on the Broad Outlines of the Database. | 5 |
| III. THE COMMENTS ALSO REFLECT A CONCERN THAT DEVELOPING AND IMPLEMENTING A NATIONAL DATABASE TO DETERMINE ELIGIBILITY AND PERFORM ONGOING VERIFICATION WILL RAISE MANY ISSUES THAT WILL TAKE TIME TO ADDRESS AND RESOLVE..... | 13 |
| IV. UNDER CURRENT CIRCUMSTANCES, EMERIOS' TWO-PHASE DEEP SOLUTION IS THE BEST APPROACH, AS IT WILL PROVIDE NEAR-TERM BENEFITS BY ELIMINATING DUPLICATE BENEFIT CLAIMS ON AN ONGOING BASIS WHILE SETTING THE STAGE FOR FULLY-AUTOMATED ELIGIBILITY DETERMINATION AND VERIFICATION..... | 15 |
| A. Overview of DEEP Solution..... | 15 |
| B. Advantages of the DEEP Solution..... | 17 |
| VI. CONCLUSION..... | 22 |

Summary

In the Notice, the Commission raised concerns about “waste, fraud, and abuse”¹ in the Lifeline and Link Up program (“Lifeline/Link Up”). The comments filed on April 21 in response to these concerns showed a remarkable degree of support for the development and use of a centrally-administered national database to handle program eligibility and verification, including to prevent the award of duplicate benefits. The key question now before the Commission – and the focus of Emerios’ reply comments – is how best to implement this database given the myriad and often complex tasks it is expected to perform. Based on its experience and expertise in developing and operating real-time databases for entities engaged in Lifeline/Link Up, Emerios believes the Commission can maximize its chances of success by adopting a phased approach to integrating functionalities into the database. By moving in stages, the Commission can build upon the interim solution proposed by multiple ETCs to address immediate concerns about duplicate benefits² and construct an automated solution to this pressing problem, which then can evolve into a long-term solution to deal with eligibility and verification.

More specifically, in its initial comments, Emerios recommended the Commission create and implement a real-time, automated and dynamic Duplicate Elimination and Eligibility Platform Solution (the “DEEP Solution”). The DEEP Solution allows for flexibility, innovation, and competition by providing an open system whereby stakeholders -- eligible telecommunications carriers (“ETCs”), states, state program administrators, and third parties –

¹ Notice at ¶ 1.

² *Ex Parte* Letter of United States Telecom Association *et al.* to Ms. Marlene Dortch, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-41, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Apr. 15, 2011.

may integrate without needing to significantly change their internal processes. In the first phase of the solution, which could be accomplished within months after a Commission decision, a neutral third-party administrator would develop and implement a Duplicate Elimination and Preference Management System (the “DES”), a carrier-neutral pre-qualification process to identify and verify whether a household or individual is already receiving a Lifeline/Link Up benefit. The DES would entail the creation, deployment, and management of:

- (1) a real-time database of active Lifeline/Link Up enrollees;
- (2) a dynamic rules engine that (a) integrates in real-time with the enrollee database, (b) continuously eliminates duplicate beneficiaries, (c) determines household and right party information to mitigate fraud, (d) enables special rules concerning tribal lands, rural Alaska, group homes, and the like, (e) can be easily modified to reflect changes in the rules, and (f) can be easily audited by pre-approved agencies;
- (3) a real-time application programming interface (“API”) (and/or web interface) that ETCs can use to transmit customer information in order to receive immediate single benefit and right party determination. This module ensures that both wireline and wireless ETCs are able to deliver a first-call resolution process;
- (4) a secure, configurable and centralized data translation hub that (a) is connected in real-time to the database and (b) enables the ETCs and states to easily transmit data utilizing their legacy systems with minimal changes; and
- (5) a carrier-neutral, multi-channel, customer preference management system that enables the ETCs (or state Lifeline/Link Up administrators) to capture and convey the carrier preference of an enrollee in real-time and retain proof of the enrollee’s selection.³

In the second phase of the recommended solution, the administrator would develop a real-time automated program Eligibility Determination and Verification System (the “EVS”) and integrate it with the DES. The EVS would provide ETCs access to an automated

³ Emerios has already developed and ETCs are currently using the DES. As such, Emerios is confident that the DES it recommends herein can be developed and deployed rapidly at a reasonable cost.

rules engine that would outline all state document and proof requirements to determine in real-time if new applicants are eligible for program benefits. It also would enable them to confirm a customer's ongoing eligibility and satisfy verification requirements. In this phase, states, state program administrators, and third party providers would provide eligibility data to the EVS by integrating their eligibility databases. By having such access, stakeholders should be able to significantly lower the cost of integration and increase the security of sensitive customer information, driving them to develop their own eligibility databases.

In these reply comments, Emerios elaborates on its proposed phased solution and demonstrates how it achieves the objectives of the Commission and is consistent with the comments of numerous commenting parties. In sum, it believes its proposal is in the public interest and urges the Commission to move forward rapidly to adopt it.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform and |) | WC Docket No. 11-42 |
| Modernization |) | |
| |) | |
| Federal-State Joint Board on Universal Service |) | CC Docket No. 96-45 |
| |) | |
| Lifeline and Link Up |) | WC Docket No. 03-109 |

REPLY COMMENTS OF EMERIOS

I. Introduction

Emerios, a division of VMBC Corporation (“Emerios”), by its attorneys, hereby submits this response to the comments filed on April 21, 2011 on the Notice of Proposed Rulemaking issued by the Federal Communications Commission (“FCC” or “Commission”) in the proceeding captioned above.¹ In its Initial Comments,² Emerios recommended a two-phase solution to determine and verify eligibility for the Lifeline and Link Up program (“Lifeline/Link Up”) and identify and resolve duplicate claims for support. Since then, Emerios has had an opportunity to review the comments of other parties, discuss its proposal with Commission staff and with a myriad of interested parties and individuals, and reflect further on how best to satisfy the multiple objectives of the Commission, states, consumers, and eligible telecommunications carriers (“ETCs”). As elaborated upon herein, Emerios is even more convinced that its phased

¹ FCC 11-32, rel. Mar. 4, 2011 (“Notice”).

² Comments of Emerios, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 8 (“Initial Comments”).

approach, which incorporates critical real-time and fully-automated functionalities within the existing workflows of industry participants, achieves the objectives set forth by the Commission in the Notice and is consistent with the comments of numerous commenting parties.

Accordingly, Emerios urges the Commission to adopt its proposal.

II. The Comments Reflect a Consensus That a National Database That is Administered by a Neutral Third Party and Meets Certain Minimum Requirements is the Best Solution to the Problem of Waste, Fraud and Abuse in the Lifeline/Link Up Program.

A. Commentors Agree That a Database is the Best Way to Eliminate Duplicate Claims and Exclude Ineligible Participants From the Lifeline/Link Up Program.

The comments filed thus far in this proceeding show near-universal support for addressing concerns about waste, fraud, and abuse in Lifeline/Link Up through the use of a centrally-administered database to determine and verify eligibility and identify and resolve duplicate claims for support.³ A database solution has broad support across carriers, ETCs, trade associations, consumer groups, and state public utility commissions. Many commentors stated that a national database is the only effective means of addressing eligibility, verification, and duplicate claims in Lifeline/Link Up.⁴ As CenturyLink observed, without a database, service

³ See, e.g., Comments of Amvensys Telecom Holdings, LLC, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 8 (“Amvensys Comments”); Comments of AT&T, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“AT&T Comments”); Comments of Budget Prepay, Inc., GreatCall, Inc., and PR Wireless, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 13 (“Budget PrePay Comments”); Comments of Comcast Corporation, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“Comcast Comments”); Comments of COMPTel, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 21 (“COMPTel Comments”); Comments of Leap Wireless International, Inc. and Cricket Communications, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 7 (“Cricket Comments”); Comments of General Communication, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“GCI Comments”); Comments of the New York Public Service Commission, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 22 (“NYPSC Comments”); Comments of the Staff of the Public Utilities Commission of Ohio, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 4, 20 (“Ohio Staff Comments”).

⁴ See Comments of Consumer Cellular, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6 (“Consumer Cellular Comments”); Comments of Cox Communications, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 2 (“Cox Comments”); Comments of CTIA –

providers can do little more than inform customers of the rules and ask them to certify compliance.⁵

Developing and implementing a database for determining eligibility, verification, and duplicate claims is essential if Lifeline/Link Up is to have “a strong and cohesive future.”⁶ A database will help ensure that universal service funds are used efficiently and in compliance with Commission requirements, and would enable the Universal Service Administrative Company (“USAC”) to more effectively detect and avoid waste, fraud and abuse in disbursing funding.⁷ Also, a database will streamline all Lifeline/Link Up-related processes, as it will simplify eligibility verification, reduce if not eliminate the annual verification process, and prevent duplicate claims for benefits.⁸ Many commentors agree that a database should prove to be cost effective, by generating savings and other benefits for the Lifeline/Link Up fund that are greater than the cost of developing and maintaining the database.⁹

The Wireless Association, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 4-6 (“CTIA Comments”); Comments of Nexus Communications, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 22 (“Nexus Comments”); Comments of TracFone Wireless, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 16 (“TracFone Comments”); Comments of the United States Telecom Association, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 13 (“USTelecom Comments”); Comments of Verizon and Verizon Wireless, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“Verizon Comments”).

⁵ See Comments of CenturyLink, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 5 (“CenturyLink Comments”).

⁶ Comments of YourTel America, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 13 (“YourTel Comments”).

⁷ Comments of the National Cable & Telecommunications Association, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“NCTA Comments”); *see* Consumer Cellular Comments at 6; COMPTel Comments at 19, 20; GCI Comments at 3; Ohio Staff Comments at 20.

⁸ See CenturyLink Comments at 21; Nexus Comments at 23; Comments of Sprint Nextel Corporation, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“Sprint Comments”); Verizon Comments at 3.

⁹ See AT&T Comments at 3; CenturyLink Comments at 21; Comments of the Connecticut Department of Public Utility Control, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6-7 (“CTDPUC Comments”); Comments of the Nebraska Public Service Commission, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 5 (“NPSC Comments”).

Commentors also note that use of a database for determining eligibility, verification, and duplicate claims will facilitate the delivery of benefits to eligible consumers. A database that indicates whether an applicant for enrollment is eligible for Lifeline/Link Up support and already receives support from another ETC would simplify the enrollment process for those households applying for benefits, expedite the ability of ETCs to enroll qualified households, and enable ETCs to promptly commence delivery of Lifeline/Link Up-supported services to those qualified households.¹⁰

Importantly, all of the ETCs and trade associations behind the “Interim Lifeline Duplicate Resolution Process”¹¹ support a database solution in their comments.¹² None suggest that this proposed interim solution to the duplicate benefits problem be made permanent, or can be used to address eligibility or verification issues. As AT&T states, industry’s proposal for an interim process is merely a “stop-gap measure” until the Commission-established database and duplicate resolution process is functioning.¹³ Commentors agree that in light of the Commission’s goals for modernizing Lifeline/Link Up and the potential benefits of a database, the Commission should proceed without delay to establish and implement a centralized database for resolving duplicate benefit claims and determining eligibility.¹⁴

¹⁰ See Verizon Comments at 3.

¹¹ See *Ex Parte* Letter of United States Telecom Association *et al.* to Ms. Marlene Dortch, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-41, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Apr. 15, 2011.

¹² See AT&T Comments at 3; CenturyLink Comments at 5; Cox Comments at 2; CTIA Comments at 4; GCI Comments at 28; Nexus Comments at 22; Sprint Comments at 3; TracFone Comments at 16; USTelecom Comments at 13; Verizon Comments at 3.

¹³ AT&T Comments at 2-3; *see* CTIA Comments at 8.

¹⁴ See Consumer Cellular Comments at 2; Comments of Conexions LLC dba Conexion Wireless, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6 (“Conexions Comments”); Cox Comments at 6; CTIA Comments at 8; USTelecom Comments at 13; YourTel Comments at 2.

B. Commentors Concur on the Broad Outlines of the Database.

The commentors that support the establishment of a database to resolve duplicate claims for benefits and determine eligibility are in general agreement on the key characteristics of the database.

Single nationwide system. There is broad support for a nationwide, centrally-administered database.¹⁵ As Verizon notes, since the largest ETCs operate in multiple states, a system under which the ETCs could interface with a single national administrator would be more efficient than a system that requires ETCs to interface with multiple, incompatible state systems.¹⁶

Two commentors argue that centralized databases on the state level or state-specific solutions are sufficient.¹⁷ However, these commentors ignore the distinct advantages presented by a single nationwide system. As Emerios explained in its Initial Comments, the cost of establishing and implementing a nationwide system would be dramatically lower than the cost of multiple smaller state systems, as the incremental cost of a larger, single, real-time pre-qualification system would be much less. Furthermore, a single nationwide database can be deployed faster than multiple state systems and should be easier to use. Finally, the security risk associated with a single nationwide system would be much less than the security risk associated

¹⁵ See CenturyLink Comments at 20-21; CTIA Comments at 4; Comments of the National ALEC Association/Prepaid Communications Association, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6 (“NALA/PCA Comments”); Nexus Comments at 5; Verizon Comments at 3.

¹⁶ See Verizon Comments at 7.

¹⁷ See Comments of Advocates for Basic Legal Equality, Inc., *et al.*, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 16 (“Consumer Groups Comments”); Comments of the Public Utility Commission of Oregon, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“Oregon Commission Comments”).

with multiple state systems, since ETCs would be required to link up with fewer interfaces, thereby mitigating opportunities for a security breach.¹⁸

Neutral third-party administrator. The commentors agree that the database should be administered by a neutral third-party selected or approved by the FCC.¹⁹ As CTIA notes, USAC or another third party with expertise in the applicable laws, rules and standards is best suited to handle the private information of end users and make consistent determinations of eligibility.²⁰ Solix agrees with Emerios that the administrator must have knowledge of the Lifeline/Link Up process and understand the most appropriate methods for interacting with Lifeline/Link Up customers.²¹ In addition, the administrator should have proven ability with

¹⁸ See Initial Comments at 8.

¹⁹ See Comments of Cincinnati Bell Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 4, 7 (“Cincinnati Bell Comments”); COMPTTEL Comments at 21; GCI Comments at 27; Comments of Minority Media and Telecommunications Council, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 7 (“MMTC Comments”).

²⁰ CTIA Comments at 7. Nexus proposes that the Commission disqualify any vendor that has provided subscriber database or other substantial services relating to an ETC’s low income operations, to ensure that “the database is administered without favor to any particular ETC.” Nexus Comments at 24. Emerios agrees the administrator should be neutral. The administrator also needs to be expert and experienced in the development and operation of databases, particularly as they relate to the Lifeline/Link Up programs. These multiple objectives cannot be achieved through Nexus’s proposal, and therefore the Commission should eschew it as inconsistent with the public interest. Rather, the FCC can ensure the impartiality of the database administrator by providing that it not be owned or controlled by any ETC and through rigorous reporting and auditing requirements, as it has done in other contexts. See, e.g., *TRS Fund Administrator*, Memorandum Opinion and Order, 14 FCC Rcd 10553 (1999) (noting continued requirement for annual audits of NECA among reasons for decision to reappoint NECA to full four-year term notwithstanding MCI’s assertion that NECA’s association with an incumbent local exchange carrier industry segment disqualifies it as a neutral third-party administrator); *Universal Service (Appointment of Universal Service Administrative Co. as Permanent Administrator)*, Third Report and Order in CC Docket No. 97-21, Fourth Report on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 3 FCC Rcd 25058 ¶¶ 20-21 (1998) (responding to concerns of possible LEC bias and the recommendation for NECA divestment by instead adopting proposal to audit USAC’s performance one year after selection as permanent administrator to ensure that the company operates “in an efficient, effective and competitively neutral manner”) (emphasis added).

²¹ See Comments of Solix, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6-7 (“Solix Comments”). Solix argues that all database-related services should be provided in the

designing, developing and deploying, on an expedited basis, database solutions that function in real-time for complex enrollment systems. As stated in its Initial Comments, Emerios believes the Commission can ensure these critical qualifications are met by: issuing a request for proposal with a detailed requirements document; selecting the administrator through a competitive-bidding procedure²²; conducting appropriate due diligence on the winning bidder; and, requiring post-award reporting with audits.

Minimum system requirements. In its Initial Comments, Emerios argued that the database solution must function in real-time to ensure that the database is kept accurate and that new program participants can enroll for benefits or change carriers without delay. This means that the database solution should enable – in real-time – the administrator to receive data and update the database.²³ Many of the commentators who support the database solution advance the

U.S. and all individuals working on the database should be physically located in the U.S. “given the vital national importance of the program.” Solix Comments at 7. Solix provides no other support for its proposal, including no evidence of how specifically the national interest would be advanced if its proposal were adopted and no evidence how it would be harmed if were not adopted. To the best of Emerios’ knowledge, no current FCC program (many, if not all, of which could be characterized as having vital national importance) has an “onshore-only” requirement. Offshore support operations are an integral element of many federal contractors’ operations, even for programs of indisputably “vital national importance.” *See, e.g., Defense Contracting: Recent Law Has impacted Contractor Use of Offshore Subsidiaries to Avoid Certain Payroll Taxes*, GAO-10-327, General Accounting Office (Jan. 2010) (noting the frequent use of offshore subsidiaries by defense contractors and reporting that in FY 2008, “29 of the top defense contractors —accounting for 41 percent of DCD contracting dollars . . . had at least 1,194 offshore subsidiaries.”).

The imposition of site requirements also risks a conflict with a number of international trade agreements including the WTO, NAFTA and countless bilateral agreements. To the extent that there are legitimate concerns regarding the development and administration of the proposed database, the appropriate resolution is implementation of adequate supply-chain and operations controls. The serious legislative proposals concerning data protection and privacy currently circulating on Capitol Hill take precisely this approach.

²² Sprint concurs with Emerios that the database provider should be chosen through a competitive bidding process. *See* Sprint Comments at 4; Initial Comments at 9.

²³ Initial Comments at 11.

same argument in their comments.²⁴ In contrast, Consumer Groups and Solix suggest that daily or periodic updates of the database are less burdensome and should suffice.²⁵ However, as Consumer Groups admits, the database cannot detect duplicate benefit claims in a timely manner if the ETCs do not update the database on a real-time basis.²⁶ As Cincinnati Bell noted in its comments:

If the database is out of date, a person could appear to have duplicate benefits when in fact the person simply switched service providers at the same address and the old provider had not yet updated the database. Conversely, a person could obtain Lifeline service from multiple providers at the same time, but it could take months to identify the situation if the database is not updated immediately.²⁷

If the database functions in real-time, ETCs would be able to provision Lifeline/Link Up service to a customer within the first call because they would be able to determine, by accessing the database while the prospective customer is on the line, whether the prospective customer already receives Lifeline/Link Up benefits from another ETC. If the database is not updated in real-time, consumers who qualify for Lifeline/Link Up benefits could find themselves without access to E911 and other phone services – for example, if a consumer moves into housing previously occupied by another Lifeline/Link Up enrollee, and the database does not reflect the previous tenant’s termination of service when the consumer orders Lifeline/Link Up service at his or her new residence. As such, Emerios submits that real-time capability must be an essential element of the proposed database.

²⁴ See CenturyLink Comments at 21; Comments of CGM, LLC, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 2 (“CGM Comments”); Cincinnati Bell Comments at 11; NALA/PCA Comments at 6; NPSC Comments at 5; Sprint Comments at 4; Verizon Comments at 3.

²⁵ See Consumer Groups Comments at 16; Solix Comments at 8-9.

²⁶ See Consumer Groups Comments at 24.

²⁷ Cincinnati Bell Comments at 11.

Emerios also argued in its Initial Comments that the database should standardize all address data to the U.S. Postal Service (“USPS”) Address Standardization and Verification – Coding Accuracy Support System (“CASS”). The system should integrate a CASS process of address matching and address verification against the most current USPS postal address data.²⁸ Commentors agree on the importance of a consistent format for customer data.²⁹ However, Smith Bagley and Gila River note that there is no USPS addressing system in place on certain tribal lands.³⁰ Similarly, GCI states that conventional street addresses do not exist in parts of rural Alaska.³¹ The lack of USPS or conventional street addresses in these locations should not be a problem for the database system. In those situations where a simple USPS address does adequately characterize a location whose residents are eligible for Lifeline/Link Up benefits – *e.g.*, a location with no USPS address, no street address, multiple tenants, etc. -- rules can be defined to enable the database system to process benefit claims for consumers residing at these locations.³² Those rare situations that cannot be defined by a rule can be handled by the administrator on an exception (manual) basis.

Commentors agree that the database solution must be easy to use, which means it needs to have sufficient capacity, response speed, and recognition accuracy, and must be fully automated. This will allow ETCs to readily integrate database activities with their existing workflows, giving them the flexibility and speed to continue enrollments without new burdens or

²⁸ Initial Comments at 11.

²⁹ See Consumer Groups Comments at 17; Comments of Mississippi Public Service Commission, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 8 (“MSPSC Comments”).

³⁰ See Comments of Gila River Telecommunications, Inc. WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 13 (“Gila River Comments”); Comments of Smith Bagley, Inc., WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 14-16 (“Smith Bagley Comments”).

³¹ See GCI Comments at 5, 24.

³² Similarly, if the Commission places restrictions on the number of times an individual can obtain Lifeline/Link Up benefits from any carrier, rules can be defined to enable the database system to process benefit claims so as to give effect to these restrictions.

delays.³³ The database system must enable the integration of multiple response channels by ETCs, state administrators, and solution providers, so that program beneficiaries can express their ETC preferences via web, Integrated Voice Recognition (“IVR”), mail, or fax. Such functionality will enable all parties to leverage lower cost channels of communication where possible to reduce their operating expenses. There is considerable support for the use of IVR and e-signatures in the comments.³⁴

Information to be collected for database and customer authentication.

Commentors concur that only the minimum information necessary to establish the identity and status of a Lifeline/Link Up customer should be collected and stored in the database system. For most commentors, the minimum information required is full name, address, last four digits of the Social Security number (“last 4SSN”), and possibly date of birth (“DOB”) or year of birth.³⁵ Many commentors express concern about the privacy and data security issues associated with collecting and retaining more extensive customer-specific information, such as complete Social Security numbers.³⁶ Emerios agrees with these concerns and believes that its proposal (name, address, phone number, name of carrier, type of service, date of service commencement, DOB, and last 4SSN) is a reasonable compromise between the protection of the consumer’s privacy and the obligation of the consumer to provide sufficient information to minimize the likelihood

³³ See Solix Comments at 7-8.

³⁴ See Amvensys Comments at 9; GCI Comments at 52; NALA/PCA Comments at 6; NYPSC Comments at 11.

³⁵ See AT&T Comments at 12-13 (name, address, DOB, last 4SSN); COMPTTEL Comments at 3 (name, address, DOB); GCI Comments at 23 (name, year of birth, last 4SSN); Comments of the Indiana Utility Regulatory Commission, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“IURC Comments”) (name, address, last 4SSN); Comments of the Michigan Public Service Commission, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 3 (“MPSC Comments”) (name, address, DOB, last 4SSN).

³⁶ See GCI Comments at 23; Comments of the Public Service Commission of the State of Missouri, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 6 (“MoPSC Comments”); NPSC Comments at 5; USTelecom Comments at 14.

of ineligibility due to duplication of benefits. Further, concerns about privacy can be addressed by ensuring the database complies with industry-standard data security requirements.

Requirements for updating the database. The comments of Consumer Groups and Sprint echo Emerios' views that ETCs should be obligated to keep their information in the database current.³⁷ If ETCs record their provision of Lifeline/Link Up service to a customer in real-time, the risk of duplicate claims will be radically reduced going forward. The database should be designed to enable users to update the database in a manner that easily integrates with existing workflows on a real-time basis.

Duplication resolution process. Commentors agree that the process of identifying and resolving duplicate claims for Lifeline/Link Up benefits must be a simple, seamless process that is FCC-sanctioned, carrier-neutral, and easy for carriers and consumers to use.³⁸ Commentors further concur that the responsibility for addressing and resolving the problems of duplicate benefits or service preferences should rest with the database administrator and not with the ETCs. Making ETCs responsible for these tasks imposes responsibilities on ETCs that are fundamentally different from their core functions as telecommunications carriers and raises potential antitrust problems and privacy concerns.³⁹ For many ETCs, being able to resolve any duplicate issues within an existing workflow or enrollment process is important for maintaining operations and reducing complexity and burden. As such, the duplicate resolution process should enable this integration by third parties and ETCs.

³⁷ See Consumer Groups Comments at 24; Sprint Comments at 4; Initial Comments at 13.

³⁸ See Nexus Comments at 23.

³⁹ See CenturyLink Comments at 7-8; CTIA Comments at 5-7.

III. The Comments Also Reflect a Concern That Developing and Implementing a National Database To Determine Eligibility and Perform Ongoing Verification Will Raise Many Issues That Will Take Time to Address and Resolve.

While there is strong support for a centrally-administered database solution, many commentors also recognize that establishing and implementing a real-time, fully automated eligibility and verification system will require a major commitment of time and impose significant costs on the FCC, federal and state public assistance agencies, the ETCs, and other industry participants. The comments show that developing and implementing a national database to determine eligibility and perform ongoing verification will raise many controversial, complex issues that will take time to address and resolve. It is because of these concerns that Emerios has proffered its phased approach to addressing concerns raised by the Commission in the Notice.

Who should be responsible for making eligibility determinations? There is no consensus in the comments as to who is the appropriate party for determining whether a consumer is eligible for Lifeline/Link Up benefits. Many commentors believe that the states are uniquely positioned to confirm the eligibility of consumers for benefits and handle consumers' sensitive data, since the states administer many of the public assistance programs that qualify a consumer for benefits.⁴⁰ In contrast, NASUCA argues strongly that ETCs must assume this responsibility.⁴¹

Will public assistance agencies provide access to eligibility and verification data?

Creating and maintaining an eligibility and verification system requires access to the data

⁴⁰ See AT&T Comments at 12; CTIA Comments at 5; Nexus Comments at 22; USTelecom Comments at 7.

⁴¹ See Comments of the National Association of State Utility Consumer Advocates, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 24-25 ("NASUCA Comments"). Emerios does not have an opinion on who should be responsible for the determination, but as discussed *infra*, Emerios' proposed solution will reduce the burden on the states if the states are given the responsibility of making the determination.

necessary to establish Lifeline/Link Up eligibility. MPSC doubts that social service agencies will allow either ETCs or the public utility commissions direct access to information about consumers that receive social service benefits.⁴² MoPSC states that it could not gain access to either federal or state social service agency databases in order to verify the eligibility of Lifeline/Link Up benefit recipients in Missouri.⁴³

What should the eligibility and verification database look like, and how should it be developed and maintained? Sprint notes that the FCC will need to explore further the relative costs and benefits of an eligibility and verification database, and in so doing, must define the scope of the project – functionalities, update capabilities, and the like.⁴⁴ MoPSC states that the logistics of developing and maintaining an eligibility and verification database are significant.⁴⁵

What is the appropriate role of the states with respect to an eligibility and verification system? What is the proper role of the FCC and other federal agencies? Commentors express uncertainty about whether a national eligibility and verification system obviates the need for existing state solutions.⁴⁶ Creation of an eligibility and verification system will require input from and cooperation with the states.⁴⁷

What is the cost of an eligibility and verification system and who should pay for it? There is considerable concern expressed in the comments about the costs associated with an eligibility and verification database, and whether the benefits of such a system will outweigh the

⁴² See MPSC Comments at 9.

⁴³ See MoPSC Comments at 4.

⁴⁴ See Sprint Comments at 3.

⁴⁵ See MoPSC Comments at 2.

⁴⁶ See Oregon Commission Comments at 3.

⁴⁷ See IURC Comments at 11; NPSC Comments at 4; Oregon Commission Comments at 3.

costs.⁴⁸ A bigger question is who will pay for any eligibility and verification system that is established. State commentators resist any suggestion that the costs be borne by the states, arguing that most state budgets are already under substantial strain.⁴⁹

How should the privacy issues associated with an eligibility and verification system be addressed? Commentors agree that providing access to financial information and other sensitive, personal data regarding Lifeline/Link Up enrollees raises difficult privacy issues, but there is no agreement on how to address and resolve these concerns.⁵⁰

IV. Under Current Circumstances, Emerios' Two-Phase DEEP Solution is the Best Approach, as It Will Provide Near-Term Benefits By Eliminating Duplicate Benefit Claims on an Ongoing Basis While Setting the Stage for Fully-Automated Eligibility Determination and Verification.

A. Overview of DEEP Solution.

The Commission can achieve the immediate benefits associated with duplicate elimination while it addresses the complex issues associated with an eligibility and verification system in the longer term by implementing Emerios' recommended Duplicate Elimination and Eligibility Platform Solution (the "DEEP Solution"). The DEEP Solution is a fully-automated duplicate elimination, eligibility and verification system that is implemented in two phases. The framework of the solution could be put into place promptly, but implementation of the solution could occur over time.

Under Emerios' recommendation, the Commission would first move quickly to implement Phase I, the Duplicate Elimination and Preference Management System ("DES").

⁴⁸ See Cincinnati Bell Comments at 4, 9; Comments of the New Jersey Division of Rate Counsel, WC Docket No. 11-42, *et al.*, Apr. 21, 2011, at 22 ("NJ Rate Counsel Comments"); NYPSC Comments at 11.

⁴⁹ See IURC Comments at 12; MoPSC Comments at 17-18; Ohio Staff Comments at 20.

⁵⁰ See Cincinnati Bell Comments at 4,9; NASUCA Comments at 25.

The goal of the DES is to enable ETCs, solution providers, and state administrators to identify and address duplicate claims for benefits and resolve customer preferences in real-time through an easy integration with existing workflows. Phase I would entail the creation, deployment, and management of:

- (1) a real-time database of active Lifeline/Link Up enrollees;
- (2) a dynamic rules engine that (a) integrates in real-time with the enrollee database, (b) continuously eliminates duplicate beneficiaries, (c) determines household and right party information to mitigate fraud, (d) enables special rules concerning tribal lands, rural Alaska, group homes, and the like, (e) can be easily modified to reflect changes in the rules, and (f) can be easily audited by pre-approved agencies;
- (3) a real-time application programming interface (“API”) (and/or web interface) that ETCs can use to transmit customer information in order to receive immediate single benefit and right party determination. This module ensures that both wireline and wireless ETCs are able to deliver a first-call resolution process;
- (4) a secure, configurable and centralized data translation hub that (a) is connected in real-time to the database and (b) enables the ETCs and states to easily transmit data utilizing their legacy systems with minimal changes; and
- (5) a carrier-neutral, multi-channel, customer preference management system that enables the ETCs (or state Lifeline/Link Up administrators) to capture and convey the carrier preference of an enrollee in real-time and retain proof of the enrollee’s selection.

The DES would enable ETCs, solution providers, and state administrators to identify duplicate benefits claims and resolve them via a simple, real-time, carrier-neutral process which the Commission would establish. The DES would easily integrate within existing workflows and would be both secure and cost effective.

Phase II of the DEEP Solution would be the integration of the DES into an automated Program Eligibility and Verification System (“EVS”). Phase II would build on the structure and systems developed in Phase I, thus dramatically reducing the cost and effort

required to expand the functionality of the DES. The EVS would, through the addition of a state administration interface, allow a state to configure, manage, and audit the dynamic rules engine to the state's documentation requirements, thereby providing ETCs, solution providers, and state administrators an automated process for determining the eligibility of Lifeline/Link Up enrollees. In addition, states could easily integrate their state qualification databases with the EVS and thus allow the ETCs to access their databases through the EVS in real-time.

The EVS would be rolled-out on a state-by-state basis. Phase II could be implemented immediately in the 34 self-certification jurisdictions⁵¹ and in states in which access to real-time program participation is available. Shortly thereafter, integration could occur in those states that are currently in the process of completing similar access to their eligibility information. State public assistance agencies could integrate their operations into the EVS as they become capable of doing so.

B. Advantages of the DEEP Solution.

The DEEP Solution has many advantages for the ETCs, consumers, the FCC, and the states.

The building blocks of the DEEP Solution are already in service. Emerios has already developed the DES and ETCs are already using it to manage their enrollment and verification processes and prevent duplicates within their own customer bases. Emerios has also developed and deployed the components of the EVS where real-time enrollment eligibility is determined by confirming participation of the applicant in qualifying state public assistance

⁵¹ The self-certification jurisdictions are Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Maryland, Maine, Michigan, Mississippi, North Carolina, North Dakota, New Hampshire, New Jersey, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin, West Virginia, American Samoa, Puerto Rico, the Northern Mariana Islands, and the District of Columbia.

programs. Thus, Emerios is confident that its proposed DEEP Solution can be successfully deployed with little risk or undue burdens.

The DES can be implemented rapidly at reasonable cost. Based on Emerios' experience building duplicate elimination systems for ETCs, it is confident that an administrator with equivalent experience, innovative capability, and technical competence would be able to design, develop, and deploy the DES within 90 days of contract. Within six months (or less) of the administrator entering into the contract, the DES should be populated by the major ETCs, and the process of eliminating and preventing duplicate claims can begin. As Emerios discussed at length in its Initial Comments, the procurement process that the Commission adopted in the *June 2008 TRS Order* can provide guidance to the Commission for the procurement of the DES.⁵² Emerios estimates the market budget and planning costs for Phase I at no more than \$7.5-10 million. This estimate excludes the costs to communicate with program beneficiaries and any ongoing fee to administer the database.

The DES would prevent duplicate benefits going forward. The DES would be updated and otherwise function in real-time. As such, it would take the next logical step and significantly improve upon the "one-time" interim solution for duplicate elimination by preventing Lifeline/Link Up beneficiaries from receiving duplicate benefits going forward. The DES would permit ETCs, state administrators, and solution providers to dip into the database through a real-time, API interaction to determine whether a new application for service is for a household to which Lifeline/Link Up benefits are already provided.

⁵² See Initial Comments at 21-23, citing *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) ("*June 2008 TRS Order*").

Burdens on the states are manageable. The DEEP Solution benefits the states.

The EVS as currently contemplated does not require the states to change their Lifeline/Link Up eligibility requirements or the manner in which those requirements are determined. Furthermore, the DEEP Solution does not require each state to build a complex system for implementing an eligibility determination solution. Rather, the burden on each state would be limited to reviewing and approving the rules engine functionality of the EVS through a secure interface, implementing a basic data warehouse that consolidates the eligibility data from its various public assistance programs, and providing the real-time connectivity for access through an API to the EVS.

As mentioned previously, the EVS would work with existing state databases, which would be integrated into the EVS on a schedule determined by the states. Thus, states that currently do not have centralized access would create a centralized eligibility data warehouse with secure, real-time access as they see fit. If such a data warehouse was designed appropriately, a single design could be leveraged across all of the states, thus dramatically reducing the per-state cost. The cost for states to integrate with the ETCs would be greatly reduced, as states would not need to provide access to each ETC individually. Rather, there would already be a DES with a dynamic rules engine integrated with the ETCs through a data exchange, ready to link into the state eligibility databases through the data exchange. The data exchange would be dynamic in that it would be adaptable to any legacy system, thus reducing or eliminating the need for states to adapt their legacy systems to interface with the DEEP Solution. Due to the lower overall cost, states would have greater incentives to implement a data warehouse for integration with the EVS.

Costs for the ETCs are reduced. The DEEP Solution also benefits the ETCs. The DEEP Solution shifts the burden of developing a complex back end eligibility and verification solution to the DEEP Solution administrator. The ETCs can retain their existing customer interface workflows, while having a real-time result on qualification, thereby eliminating the need to again contact the customer in the event of a duplication. Consequently, the DEEP Solution should lower the ETCs' costs for acquiring customers and enable the ETCs to focus more on marketing outreach efforts. Also, annual verification and audit costs should be dramatically reduced for the ETCs under the DEEP Solution. Since the EVS would be used by ETCs to regularly verify that their customers remain eligible for Lifeline/Link Up program participation, ETCs would no longer need to reach out to customers to conduct verifications and audits. The costs associated with audits would also be reduced by the availability of an auditable trail and automated look-up of ongoing customer eligibility. Finally, the DEEP Solution would enable ETCs to deliver superior customer service and low turn-around times, since it has real-time capability.

Privacy concerns are addressed. As Emerios discussed at length in its Initial Comments, the customer information that Emerios proposes would be collected in deploying the DES -- name, address, phone number, type of service, date of service commencement, last 4SSN, and DOB -- is sufficiently limited such that the restrictions on the government's access to customer information in the Cable Communications Policy Act of 1984,⁵³ Section 222 of the Communications Act of 1934, as amended,⁵⁴ and the Stored Communications Act⁵⁵ would not be

⁵³ 47 U.S.C. § 551 *et seq.*

⁵⁴ 47 U.S.C. § 222.

⁵⁵ 18 U.S.C. § 2701 *et seq.*

triggered.⁵⁶ Access to financial information and other sensitive, personal data regarding Lifeline/Link Up enrollees would occur as Phase II is implemented or as states elect to integrate with the EVS. Since the EVS would be rolled-out on a state-by-state basis, state privacy concerns can be dealt with as each state integrates into the system. Access to confidential customer information can be minimized if the access to state qualification databases is limited to confirming consumer-provided information.

The DEEP Solution is good for consumers. The DEEP Solution is consumer-friendly and pro-competitive. The DES will allow a low-income consumer to easily select, through multiple channels, a new carrier if he/she wishes to purchase a competing service. As such, the DEEP Solution not only delivers a superior program experience for the consumer but also ensures the ongoing competitive environment necessary to deliver the best Lifeline/Link Up product to the marketplace.


⁵⁶ See Initial Comments at 18-20.

VI. Conclusion

For these reasons, the Commission should adopt and implement Emerios' recommended two-phase solution to determine and verify Lifeline/Link Up eligibility and identify and resolve duplicate claims for support, thereby reducing waste, fraud and abuse in the Lifeline/Link Up program.

Respectfully submitted,

EMERIOS, A DIVISION OF VMBC CORPORATION

By: 
Thomas W. Cohen
Joan M. Griffin
KELLEY DRYE & WARREN LLP
3050 K Street N.W., Suite 400
Washington, D.C. 20007
(202) 342-8400
tcohen@kelleydrye.com
jgriffin@kelleydrye.com

Its Attorneys

May 10, 2011